



MAYOR AND COUNCIL AGENDA

NO. // DEPT: Community Planning and Development Services
STAFF CONTACT: Arthur Chambers

DATE PREPARED: 3/2/2005
FOR MEETING OF: 3/7/2005

SUBJECT: Approval of Condominium Declarations, Bylaws, Rules and Regulations, and plats for Blocks 1/2, 4 and 5 of the Town Square Project.

RECOMMENDATION: Approve the Condominium Declaration, Bylaws, Rules and Regulations and plats for Block 1/2, 4 and 5; subject to approval as to form by the City Attorney and authorize the City Manager to sign the necessary documents.

DISCUSSION: This item was previously discussed at the January 31, 2005 Mayor and Council work session, (a copy of agenda sheet with an executive summary and an example of the condominium plats is attached for information as attachment 1). That executive summary has not been updated to reflect changes made over the last few weeks, however the changes are discussed below. The other attachments are the complete set of documents (declarations, bylaws, rules and regulations, and a reduced copy of plats for Block 1/2 (attachment 2) Block 4 (attachment 3) and Block 5 (attachment 4). The Block 5 documents were reviewed at the January 31 Mayor and Council meeting. The other two blocks are modeled on the Block 5 documents and are basically the same except for block numbers and signatures.

Changes to the documents made since the January 31, Mayor and Council meeting include:

1. Change from a calendar year to a fiscal year for budgeting purposes.
(Bylaws Paragraph 5.1. (a)).
2. Deletion of reference to the amount of fine for violating loading dock requirements in Block 1/2. (Rules and Regulations-Paragraph 2.2.2).
3. Language has been inserted in all blocks regarding kiosks. There can be two permanent kiosk (one on either side of the pavilion in the plaza) and eight temporary or pushcart kiosks. The temporary kiosks cannot be located within 75 of another kiosk (Rules and Regulations, Paragraph 3.4). That would limit the number of temporary kiosks in the plaza to tow per side or a total 4.
4. High speed access would not be prohibited for use by owners of any of the condominium units (Rules and Regulations, Paragraph 4.5)
5. The residential and retail unit owners are required to provide upkeep in a "First Class" Condition (Rules and Regulations, Paragraph 4.1). This is a very high industry standard.

6. Members of the Board of Directors, Officers and committee members are not personally liable. Provisions about liability are set out in Section 3.10 of the Bylaws.
7. The city retains the right to sovereign immunity. Insurance will be obtained by the condominium regime (all three units) to provide appropriate coverage. Each owner can also obtain supplemental insurance.
8. The Block 4 condominium documents and plat reflect a fourth unit owner, the Residential Parking Unit. These are the parking spaces that will be owned by some of the residential condominium owner in Block 5.
9. A schedule of alternative percentage allocation and special maintenance expenses has been attached as Exhibit E to each of the Declarations. That schedule shows which unit owner(s) will be responsible for the various maintenance, repair, etc. item. For example all unit owners (including the garage) will share in the expenses for the alarm monitoring costs. Only the retail and residential units will share in the costs for loading dock maintenance.
10. Each Block will have a different owner/declarant to reflect the various entities created by R.D. Rockville, LLC as a result of financing, etc.

Fiscal Impact: There will be some condominium costs charged to the garage unit. Those costs have not yet been estimated. They will be included in the final garage pro forma.

Next Steps: Approve the condominium documents.

PREPARED BY:


Arthur D. Chambers, AICP, Director

3/2/05
Date 3/2/2005

APPROVED BY:

Scott Ullery, City Manager

Date

LIST OF ATTACHMENTS:

1. Agenda sheet for the January 31, 2005 Mayor and Council meeting.
2. Condominium Documents for Block 1/2.
3. Condominium Documents for Block 4.
4. Condominium Documents for Block 5.



MAYOR AND COUNCIL AGENDA

NO. 2

DEPT.: / Community Planning and Development Services DATE: January 31, 2005
 STAFF CONTACT: Arthur D. Chambers, AICP, Director

SUBJECT: Discussion of Town Square Condominium Documents and Plats and related issues.

RECOMMENDATION: Receive information in preparation for formal action. The formal action will be for Mayor and Council to authorize the City Manager to sign the documents. That action should be on a Mayor and Council agenda in late February, 2005.

IMPACT: ☐ Environmental ☒ Fiscal ☐ Neighborhood ☒ Other: General
 Development Agreement, precedent to closing on development rights.

DISCUSSION/HISTORY/BACKGROUND: As part of the Town Square Development, the future ownership of the various buildings will be a combination of the City (parking garages), Federal Realty Investment Trust [FRIT] (retail), and RD Rockville LLC (residential). Since portions of each of the buildings will be owned by different entities, condominiums will be created. When a *condominium regime* (the entire building and adjacent land) is created with multiple *condominium units* (i.e., garage, retail or residential), there are *general common elements* that are used by all units (i.e., driveways, some hallways, sidewalks, etc.). There are also some *limited common elements* that are shared by two of the units (i.e., stairwells, roofs, etc.). In some instances there are elements of one unit that extend through another unit (i.e., air shaft, stairwell).

This will be the first time the City has an ownership interest in a condominium. Being an owner entails different responsibilities as compared to being the governing entity. For example, the governing body of the condominium regime will be a three-member body with the City having an equal vote with the retail owner and the residential owner. (For the purposes of this discussion, the residential owner today is RD Rockville LLC and the president of the Residential condominium sub-unit board after the individual units are sold). That board will be responsible for setting yearly